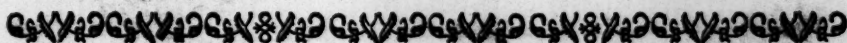


THE
BISHOP of LONDON's
C H A R G E
TO HIS
C L E R G Y,
MDCCCLIX.



1857

CHURCH OF ENGLAND

THE

BISHOP OF LONDON

C H A R G E



C L E R G Y

MDCCLIX

CHURCH OF ENGLAND

Francis Hargrave.
My Bishop Sherlock.
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C H A R G E
DELIVERED TO THE
C L E R G Y,
AT A
V I S I T A T I O N
HELD FOR THE
DIOCESE OF LONDON,
IN THE YEAR MDCCCLIX.

By the Right Reverend
K. Sherlock
THOMAS, Lord Bishop of LONDON.

L O N D O N,

Printed for J. WHISTON and B. WHITE at *Boyle's Head*,
W. OWEN at *Homer's Head*, both in *Fleet-street*,
and E. BAKER at *Tunbridge*.

C H A R G E

DELIVERED TO THE

C L E R G Y

AT A

V I S I T A T I O N



By the Right Reverend

THOMAS Lord Bishop of LONDON

L O N D O N

Printed by J. Whiston and B. Whiston at the
W. Clow & Sons' Press, No. 1, Abchurch Lane,
and E. Baskin at Reading.



THE
BISHOP of LONDON's
CHARGE
TO HIS
CLERGY.



MY REVEREND BRETHREN,

THE Relation I bear to you makes it necessary for me on this Occasion to remind you, though of yourselves, I trust, not unmindful, of the Duty incumbent on you, as Ministers of the Gospel of Christ.

To go through the several Parts of the Pastoral Office would require more Time than can be allowed

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for

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for it at present: I shall therefore confine myself to such Particulars, as seem, in the present Circumstances of Things, to require our more immediate Attention.

THE Duties of the Pastoral Office are to be learned from the general Rules and Directions of the Gospel, and the Nature of the Office as there described, and in the Exercise of these Duties we must govern ourselves by the particular Laws and Constitutions of this Christian Church and Kingdom, of which we are Members. These are the Lights by which we must walk: And I shall consider the Duties, which fall within the Compass of my present Design, as they flow from the Nature of your Office, and the Precepts of the Gospel, and as they are adjusted and enforced by the Laws of this Church and Kingdom.

THE first Thing, and the only one I shall now mention to you, is the Obligation you are under to a constant Attendance upon your several Cures: I mention it first, because it is the Foundation of all other Duties, and it would be absurd to speak of any other, without presupposing this.

THIS Duty arises by necessary Consequence from the Nature of the Office which you have undertaken. The Ministers of the Gospel are *Ambassadors of Christ*, to exhort and pray the People in his stead, to be reconciled

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ciled to God: They are Overseers of the Flock, and bound to feed the Church of God, which he hath purchased with his own Blood: They are Ministers and Stewards of the Mysteries of God, and it is required of them that they be found faithful: They are Watchmen for the Souls of those committed to their Care, and must give Account to Him, who is ready to judge the Quick and Dead.

TELL me now, which of these Duties can be discharged by one who absents himself from his Cure? Can you deliver the Message of Christ, as his *Ambassador*, to Persons to whom you have no Access? Can you *oversee* the Flock, or *feed* the Church, which you have forsaken? Can you dispense the *Mysteries of God* to those whom you neither see nor speak to? Or can you *watch* for their Souls, to whose Persons, as well as to their spiritual Wants, you are a Stranger?

ATTENDANCE upon the Flock or People of Christ does so naturally follow from these Descriptions of the Pastoral Office, that there could be no Occasion to mention it as a distinct and particular Duty. Were you to agree with a Pilot to conduct a Ship to the *East-Indies*, it would be almost absurd to add, as a particular Covenant, that he should reside in the Ship during the Voyage; since, without it, he could

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not possibly fulfil the essential Part of the Contract, of conducting the Ship to Port. The Case is the very same in your Office: When you accept of a Cure, you are as much bound to reside among the People committed to your Care, as the Pilot is to abide in the Ship which he has undertaken to manage and conduct: For this Reason the Canonists generally hold, That Residence is *Jure divino naturali*, meaning, that it is a Duty deducible from the divine Law by a natural and necessary Consequence.

THIS Duty, with respect to the Substance of it, has been invariably the same in all Times of the Church: The essential Part is a personal Attendance upon the Discharge of the Pastoral Office: So far there has been no Change. But the Circumstances of the Duty have varied, according to the different Settlements and Provisions made for the Preachers of the Gospel in different Times. In early Times the Clergy lived with their Bishop in the City of the Diocese, and were sent, as Occasion required, to instruct the People in the Country, and to administer the Sacraments to them; and then their Residence, with respect to the Locality of it, was of equal Extent with the Diocese.

SINCE the dividing of Dioceses into Parishes, and the appointing a particular Curate to every particular

CHARGE TO HIS CLERGY.

§

cular Parish, the Bounds of this Duty have been contracted; and Residence has been considered, in the Law of the Church, as the Curate's personal Attendance upon the Duties of his Office within the Limits of the Parish, where the Cure of Souls is committed to him by the Bishop.

UNDER this Restriction, the Provincial Constitutions of the Church, and the Laws of the Realm, consider Residence as a *perpetual* Duty; and every non-resident Rector, or Vicar of a Parish, is, *primâ facie*, criminal in the Eye of both Laws, till he shews a legal Dispensation to justify or excuse himself.

THESE Dispensations create the whole Difficulty of this Case, and therefore I shall consider them particularly.

THAT the Obligation to Residence may be dissolved in some Cases, there is no doubt: All Infirmities, either of Body or of Mind, which totally disable an Incumbent from performing his Duty, are Cases of this kind: For as Residence is of no Value, but for the sake of performing the Duty, it is of no Consequence to the Church and Religion, where the Man resides, who is under an utter Incapacity of doing any Part of the parochial Duty. Cases of this kind speak for themselves. But there are

I. Dispensations:

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Dispensations introduced and admitted by Law, and which are supposed to be founded in the general Consideration of the Good of the Church. I wish these Dispensations had not, many of them, outlived the Reasons upon which they were introduced. Wherever that happens to be the Case, it is a Matter for every Clergyman to consider, Whether he can, in good Conscience, make use of a mere legal Exemption to discharge himself of a Duty to which he is bound by the strongest Obligations? But this Judgment must be left to yourselves, and the Bishop's Authority in the Case must be considered as bounded by the Rules of Law. I will inquire therefore,

I. IN what Cases Dispensations are grantable, and by whom.

II. UPON what Conditions they are grantable.

THE Canon Law has mentioned some Cases, in which the Bishop may dispense with Residence; and it supposes others, referring them to the Judgment and Discretion of the Bishop.

I. It allows of a Dispensation for such as abide in some approved University for the Study of Divinity or Canon Law. This Dispensation is limited in

CHARGE TO HIS CLERGY. 7

Point of Time, and not allowed to exceed five or six Years: And the Reason of granting it is, a Presumption that it will be for the Benefit of the Church and People to have the Minister himself well instructed; and that his Absence from his Cure for a few Years will be compensated by the Ability he will then acquire to execute his Office to the better Edification of the People.

THIS being the Reason on which this Dispensation is grantable, it follows, that no Incumbent can, with a good Conscience, make use of this Exemption, unless he does *bonâ fide* pursue the End for which it is granted, by a close Application to the Study of his Profession in the University where he resides,

THIS Reason, introduced at first by the Canon Law, has been approved by the Legislature of this Kingdom; and *Scholars conversant and abiding for Study, without Fraud or Covin, at any University within this Realm, or without*, are excepted from the Penalties of the 21 H. VIII. cap. 13.

THIS Exception, so generally expressed, was soon abused; which occasioned the Restrictions laid on it by the 28th of Hen. VIII. cap. 13. By which Act the Privilege was confined to those that were under the Age of forty Years.

So

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So that with respect to this Point the Statute has made no Alteration at all, except restraining the Grant to Persons under forty Years of Age. For the Statute 21 H. VIII. c. 13. enacts nothing new with respect to Students in the University; and that of 28 H. VIII. c. 13. having limited the general Licences for studying in the University, has a Clause to except all Heads of Houses, and publick Officers, &c. from the said Limitation. So that the Persons thus excepted stand clear of the Statutes, which leave them just where they found them, and subject to be called to Residence, unless they have the Ordinary's Dispensation.

UPON both these Statutes therefore it must be observed, and ought to be remembered, That they grant no *Licence of Non-residence* to any Person on any Occasion: They were made to enforce Residence, and are introductive of a new Penalty upon Non-residence; from which *new Penalty* certain Persons, in the Circumstances therein described, are exempted; but those Persons, in the Circumstances there described, are liable still to Ecclesiastical Censures, unless they are dispensed with in the Manner the Law, before and since the Statutes, requires. And this is a Point in which many have been mistaken, or willingly ignorant.

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2. THE Canon Law allows the Service of the Bishop to be a sufficient Licence for Non-residence. The necessary Care and Business of a Diocese require that the Bishop should have the Assistance of one or more discrete Clergymen: And since it is much easier to find a proper Curate to serve a Parish, than a proper Person to advise and assist the Bishop in the general Care of the Diocese, the Law considers the Person, who abides with the Bishop for these Purposes, as more usefully employed, than if he were confined to the Care of one Parish only. In this Case therefore the Good of the Church is made the Foundation of the Dispensation.

THIS Reason also is admitted in the Statutes before-mentioned; and Chaplains of Archbishops and Bishops, daily attending in their Households, are exempted from the Penalty of the Act.

THE Statute has extended this Exemption to other Cases not expressly mentioned in the Canon Law, as to the Chaplains of the Nobility and great Officers of the Crown; though Cases of this Kind had usually been dispensed with before the Act; which Dispensations were founded upon the general Power, reserved to the Bishop by the Canon Law, to dispense where there appeared to him to be *justa & rationabilis Causa*: And since the Virtue and Example of great and potent

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Families

Families will necessarily have a great Influence upon the Manners and Religion of any Country, it was thought reasonable to dispense with the personal Attendance of an Incumbent in his Parish, whilst he was employed in teaching and instructing the younger Parts of great Families, and performing the Offices of his Function daily to all Parts of it. So that these Dispensations had for their End the general Interest and Good of Religion in the Kingdom.

THAT the Exemption in the Statute, granted to the Chaplains of the Nobility, proceeds upon the same Views, is evident from the Restriction under which the Exemption is granted: For it extends not to all Chaplains of the Nobility in general, but to such only as *are daily attending, abiding, and remaining in their honourable Households*; and for so long Time only, as *such Chaplains shall abide and dwell, without Fraud and Covin, in any of the said honourable Households.*

THE Statute considers the Service of the Chaplain in the Household of his Lord, as the only Ground of the Exemption; and it cannot be doubted, but that such Service only is meant, as is proper and peculiar to the Office of a Chaplain. And therefore a mere Retainer of a Clergyman to be Chaplain to a Nobleman, unless he actually abides and dwells in the Household,

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Houſhold, is no Title to the Exemption of the Statute; and if one retained and titled Chaplain abides in the Houſhold to do any *other* Service, and not the Service of a Chaplain, it is not *ſuch* an Abiding as the Statute intends, but is *fraudulent* and *covinous*.

I HAVE ſpoken to this Caſe more particularly, becauſe it is a common Caſe; and I hope, all who plead this Title to an Exemption from Reſidence, will conſider whether they purſue the Reaſon and Meaning of the Law. It will be but little Comfort to ſcreen themſelves under the Letter of the Law, if they are condemned by the Reaſon of the Law and their own Conſcience.

3. THE Service of the Church is another Reaſon taken Notice of by the Canon Law; as Attendance, for Inſtance, in Convocation. The Statute does not mention this, neither has it, I conceive, condemned it; for he is not *wilfully* abſent from his Cure, (as the Statute ſpeaks) who is abſent in Obedience to the King's Writ.

4. THE Service of the Crown is, by the Common Law, a Diſpenſation of Reſidence; but it is ſo only during the Time a Clerk is actually in the King's Service: And the Statute before-mentioned has exempted even the King's Chaplains from the Penalty

of Non-residence, so long only as they shall be attending in the Household.

THESE are the principal Cases in which Non-residence is excusable by the Canon Law and the Laws of this Realm; and it is manifest from the Reason of these Cases, that a Dispensation for Residence is by no Law permitted to be granted as a *Favour to any Person*, and that it is only to be justified when the Service of the Church or the Commonwealth make it reasonable.

THIS general Observation upon the Cases which the Law has expressly provided for, will enable us to judge of the Cases not expressly provided for by the Law, but reserved to the Discretion of the Bishop.

5. THE Canon Law admits the Bishop to dispense with Residence where there is *justa & rationabilis Causa*. In all Cases provided for by the Law itself, the *justa & rationabilis Causa* is the Good either of Church or State. And we may be sure the Laws never intended the Bishop should grant such Dispensations, but for Reasons of the like Nature, or in Cases of great Necessity. Dispensations of this Kind never were fit to be asked as *Favours* of the Bishop, nor had he Power to grant them as *Favours*; but was bound to direct his Judgment as the Cause appeared to be *justa & rationabilis*, or otherwise.

THAT

THAT the Bishops had and exercised this Power in the Church of England, is manifest from many Instances remaining in the Registers of the several Dioceses, and the Authority of Lyndwood, who makes the Bishop's Licence to be necessary in all Cases: His Words, speaking of the Rectors of Parishes, are *Si sine Licentia non residerent—contra eos procedi posset secundum exigentiam iurium in ea parte statutorum.*

BUT the great Question is, How this Matter now stands since the Statute of the 21 H. VIII.

By the Words of this Statute, *All Licences or Dispensations obtained at the Court of Rome, or elsewhere, by any Persons to be non-resident contrary to the Act, are declared to be void and of none Effect; and every Person putting such Dispensation in Execution is subject to a Penalty of Twenty Pounds.*

THE enacting Part of this Statute requires, that every Archdeacon, Dean, Dignitary, Parson, and Vicar, be constantly resident in, at, and upon his Dignity or Benefice; and in case he has a Plurality, that he shall at least be resident upon one of his Dignities or Benefices.

THEN follows the Penalty for Non-residence.

AND

AND in the next Clause all Dispensations contrary to the Act are declared void.

HAD the Act stopped here, all Dispensations of Residence had been intirely taken away.

BUT the Act goes on, and makes the Exceptions, which I have already mentioned, for Persons employed in the King's Service, or as Chaplains to Bishops, or Temporal Lords, or great Officers of the Crown; for Scholars studying at the University, and the like: And a Provision there is for the King to give Licence for Non-residence to his own Chaplains.

BY the Common Law the Service of the King, so long as the Service continues, is a Dispensation of Residence; and the King, as supreme Ordinary, could give Licence for Non-residence in other Cases: The Rights are preserved to the Crown, but under this Limitation, That a Licence from the King is restrained to his own Chaplains only.

IF this Act has restrained this Power in the Crown, without doubt it has restrained it in all inferior Ordinaries. But it must be observed, that the Act itself grants no Dispensation to any Person in any Case: And therefore the Persons exempted by the Act from the Penalties of it, cannot justify Non-residence merely

merely by pleading the Act; but they must justify it by a Dispensation from the Ordinary, and by shewing that the Dispensation is not contrary to the Act: Were it otherwise, the Law must be supposed to leave every Man to judge in his own Case, and to dispense with himself, which I suppose no Law ever did. The Cases therefore excepted in the Act are Cases left open to Dispensation, and stand just as they did before the Act: And this is clear from the Words of the Statute, which does not take away *all* Dispensations, but such only as are contrary to the Statute; so that Dispensations not contrary to the Statute are left as they were. There are many Cases not provided for in the Statute, which must, in all Reason and Equity, be considered as Excuses for Non-residence. If a Man taken sick at a Distance from home should be unable to return within a Month, or if it should be judged necessary for him to remove for the Recovery of Health; in these, and the like Cases, the Statute has been and always will be construed so as to be made consistent with the common Rules of Justice and Equity.

THERE is one Case in which Dispensations are frequently applied for, and ought to be mentioned. It is the Case of Vicars, who are bound by Oath to perpetual Residence: In the Form of the Oath, Provision is made for the Bishop to dispense. Now for any

Absence not exceeding a Month at once, and two Months in a Year taken together, (which is the Statutable Allowance) the Bishop's Dispensation to the Vicar is, I conceive, to all Intents effectual, as not being contrary to the Statute. If the Dispensation goes farther, it is certainly void, considered as a Dispensation for Residence; but the particular Obligation of the Oath laid on by the Canon may, I think, be dispensed with by the Bishop, it being the Condition implied in the Oath; and no Oath obliges further, or to more, than is understood to be the Meaning of it by the Imposer and the Taker of the Oath. The Dispensation with the Oath, in this Case, arises therefore *ex vi compassi*: It removes only the particular Obligation of the Oath, and does not interfere with the Authority of the Statute: For I see no Ground to suppose that the Statute has made the Oath to be absolute, which is always given and taken with a Condition.

BUT with respect to this Oath enjoined by the Canon to be taken by Vicars, I meet with a very common Opinion, and for which I never yet could hear a Reason, That the Duty of Residence is not the same in the Case of a Rector of a Parish, as in the Case of a Vicar. If we consider this Case in Theory, it is impossible to imagine a Reason that could incline the Governors of the Church to require less Duty

CHARGE TO HIS CLERGY. 17

from a Rector than from a Vicar. Is it because he has a better Maintenance and larger Income, that therefore he should do less Duty? Are not all Priests, whether ordained to the Title of a Rectory, or to the Title of a Vicarage, called to the Performance of the same Duty, and bound by the same solemn Engagement to the faithful Discharge of it? Look into the Office of Ordination: Do not all Priests, whether called to be Rectors or Vicars, promise to “ give
 “ faithful Diligence always to minister the Doctrine
 “ and Sacraments and Discipline of Christ, and to
 “ teach the People *committed to their Care and Charge*
 “ with all Diligence to keep and observe the same?”
 — and likewise — “ to use public and private Moni-
 “ tions, as well to the Sick as to the Whole, *within*
 “ *their Cures*, as Need shall require, and Occasion
 “ shall be given?” Do they not solemnly promise
 “ to set forward Gentleness, Peace, and Love among
 “ all Christian People, and especially among those
 “ who shall be *committed to their Charge*?” The Church having then required these Duties from all her Priests equally, and particularly required of them to discharge these Duties *in their respective Cures*, and among the People *committed to their Charge*; upon what Ground can it be supposed that the Church should think constant Residence necessary for the Discharge of these Duties in a Vicar, but not equally necessary in a Rector, though both have the same Duty, and are put under the same Engagements?

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As

As it is impossible, in the Reason and Nature of the Thing, to find any Ground for such Difference in the Case of a Rector, and in the Case of a Vicar; so neither is there any Pretence for such Difference, either from the Ecclesiastical or Temporal Laws of this Kingdom: All Canons, all Statutes, relating to Residence, do affect all Incumbents equally, without considering whether they are Rectors or Vicars.

THE 47th Canon of 1603 has this Title: *The Absence of beneficed Men to be supplied by Curates that are allowed Preachers.*

Look into the Canon, and see who they are who may be absent from their Livings: You will find nothing there of this supposed Privilege of Rectors; but you will find that no *beneficed Man whatever can be absent from his Benefice without a Licence, according to the Laws of the Realm, upon urgent Occasion of other Service*: So that every beneficed Man is by Law bound to continual Residence, unless upon urgent Occasion, and such as the Law allows, he has a Licence to be absent.

INDEED, the ancient Canons, relating to the Residence of the Parochial Clergy, are older than the Settlement of Vicarages, which obtained here, when Appropriations grew frequent, and it became necessary

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fary to provide a Remedy for the Mifchiefs that followed after them: These Canons therefore, when they require strict continual Residence, had no particular View to Vicars, who were not then in being.

BUT this Mistake has, I presume, arisen merely from a Legatine Constitution, still in Force, and observed in the Practice of our Church; in Consequence of which, every Vicar at his Institution takes an Oath of perpetual Residence, which is not required to be taken by Rectors.

BUT to argue from hence, that Rectors are not obliged to perpetual Residence, because Vicars are obliged to it by Oath, is a strange Way of reasoning, and applied to any other Case would manifestly appear to be so. Suppose two Men owed you each of them an hundred Pounds, and you should trust one upon his Word, or his Note, and require a Bond from the other; would it follow, that the Man whose Word you took owed less than the Man whose Bond you required? The Difference lies merely in the Security given for Discharge of the Duty, but in the Nature and Extent of the Duty itself there is no Difference.

AND if Rectors consider the solemn Engagements they are under at their Ordination to exercise their Function among the People *who should be committed*

to their Care, their Oath of *Canonical* Obedience, together with the *Canons* requiring their constant Residence on their Cures, they will find themselves, I think, under no less Obligation to personal Residence than the Vicars are.

BUT, to clear up this Matter once for all, I desire you to consider with me the Original of the Vicars' Oath of Residence; and you will find it was not introduced upon a Supposition that Vicars are bound to a stricter Residence than Rectors, but upon another Occasion, and to prevent a great Abuse of another Kind.

THE Case was thus: In the Council of *Lateran* held under *Alexander III.* in the Year 1179, and likewise in another *Lateran* Council held under *Innocent III.* in the Year 1215, there were very strict Canons made against Pluralities: By the first of these Councils Pluralities are restrained, and every Person admitted *ad Ecclesiam, vel Ecclesiasticum Ministerium*, is bound *residere in Loca & Curam per seipsum exercere*. By the second of these Councils, if any Person, having one Benefice with Cure of Souls, accepts of a second, his first is declared void *ipso Jure*. These Canons were received in *England*, and are still Part of our Ecclesiastical Law.

AT

AT the first Appearance of these Canons, there was no Doubt made but they obliged *all Rectors*; for they, according to the Language of the Law, had Churches *in Title*, and had *Beneficium Ecclesiasticum*; and of such the Canons spoke. But Vicars did not look upon themselves to be bound by these Canons; for they *, as the Gloss upon the Decretals speaks, had not *Ecclesiam quoad Titulum*; and the Text of the Law † describes them not as *having Benefices*, but as bound *Personis & Ecclesiis deservire*, i. e. as assistant to the Rector in his Church.

UPON this Notion a Practice was founded, and prevailed in *England*, which eluded the Canons made against Pluralities. A Man *beneficed* in one Church could not accept another, without voiding the first; but a Man possessed of a Benefice could accept a Vicarage under the Rector in another Church; for that was no Benefice in Law, and therefore not within the Letter of the Canon, which forbids any Man's holding two *Benefices*.

THE Way then of taking a second Living in Fraud of the Canon was this: A Friend was presented, who took the Institution, and had the Church *quoad Titulum*: As soon as he was possessed, he constituted the Person Vicar for whose Benefit he took the Living,

* Decret. lib. 1. tit. 28. c. 3. verb. *removere*. † Ibid. c. 2.

and by Consent of the Diocesan allotted the whole Profit of the Living for his Portion, except a small Matter reserved to himself.

THIS Vicar went and resided upon his first Living, for the Canon reached him where he had the *Benefice*; but having no *Benefice* where he had only a Vicarage, he thought himself secure against the late Canons requiring Residence.

THIS Piece of Management gave Occasion to the Papal Decrees and the Provincial Constitutions relating to the Residence of Vicars; and one would imagine, by what appears in the Decretals and in our own Provincial Constitutions, that this Piece of Fraud was peculiar to *England*: For all the Decretals relating to the Residence of Vicars, and making Vicarages incompatible with other Cures, are directed to *English* Bishops, and relate to Cases which happened in this Kingdom, as may be seen in the Decretals under the Title *De Officio Vicarii*. And in Point of Time, these Decretals followed close after the Councils of *Lateran* before-mentioned, where the Canons against Pluralities were made,

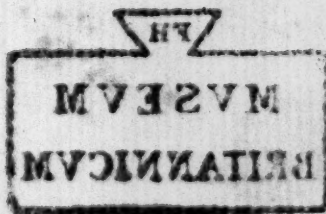
ABOUT the same Time our Provincial Constitutions take Notice of this Abuse. Archbishop *Langton* in 1222 ordained, in a Council of his Province, that no
Bishop

Bishop should admit any one to a Vicarage, *nisi velit in Ecclesiâ, in quâ ei Vicaria conceditur, personaliter ministrare.*

BUT the Abuse still continued, notwithstanding these Papal Decrees and Provincial Constitutions; and therefore *Otho*, who was Legate here from the Pope, in a Council held before him in 1237, and 22d of H. III. applied a stronger Remedy; ordaining, that no one should be admitted to a Vicarage, unless he first resigned all other Benefices with Cure of Souls, if he had any; *ac juret Residentiam facere, ac eam faciat continuè corporalem.* It is upon the Authority of this Constitution, that the Oath of Residence is administered to Vicars to this Day.

THE Reason for obliging Vicars to resign other Benefices with Cures, and to take an Oath of Residence, is expressed in the Constitution itself; and it was to exclude the Fraud then common in Practice, by which the Canons against Pluralities were avoided.—*Sicque illudatur illi dolo, quo sæpe, assignato alicui Nomine Personatus aliquo modico, simulate dabatur alii Ecclesia ficto nomine Vicariæ; qui timens alia perdere Beneficia, metuebat eam recipere ut Persona:* that is, as *J. de Athon* explains it, they took the Profits as pretended Vicars, well knowing that, if they took them as Parsons or Rectors, their former Benefices would be void by the Council.

FROM



FROM this Account it is very plain, that the Canons injoining Residence, and an Oath of Residence to Vicars, had no View to oblige Vicars to more Residence than Rectors were bound to: But, whereas Vicars thought themselves not at all obliged by the Canons of Residence, as not having Benefices or Titles in their Churches; the new Constitutions were made to bring *them* under the Canons of Residence, as well as *Parsons* and *Rectors*, and not to impose *another* and *different* Duty on them.

THERE are some Cases which the Law does not suppose, and therefore has made no Provision for them; in which it is hard to know what the Bishop may equitably require of the Clergy, and what the Clergy are strictly bound to perform. First, Some Livings have neither House nor Glebe belonging to them; and perhaps no convenient Houses or Lodgings are to be had within the District of such Parishes. And, Secondly, in some Parishes the Glebe Houses are mere Cottages, and so extremely mean, as not to afford even tolerable Conveniences to the Rector and his Family. The Question is, What is to be done in these Cases? How shall the Minister reside, who has no House, and can hire no House in his Parish? The Law does not bind to Impossibilities: And therefore my Lord Coke in the 6th Report, *Butler and Goodal's Case*, says, that the Want of an House is an Excuse

for the Council

FROM



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for Non-residence; for *Impotentia excusat Legem*. Whether this Opinion be Law, and how far the Reason of it will go, shall be considered presently.

ORIGINALLY, as is well known, the Bishop and his Clergy lived together, and had one common Maintenance arising from the Oblations of the People, which were distributed by the Bishop, or those appointed by him, according to the Rules laid down in the ancient Canons: And in what Part of the Diocese soever a Presbyter was by Order of his Bishop, he was, properly speaking, resident upon his Cure; for Residence then was relative to the whole Diocese, as it is now to particular Parishes, since the State of Church Discipline has, in this Respect, been altered by the Division of a Diocese into Parishes: And therefore the ancient Canons, which forbid the Clergy to move from Church to Church, without Consent of the Bishop, mean no more, than that a Clergyman should not forsake the Bishop, and the Diocese where he received Ordination: And the Word *Parish*, in old Canons, is used to signify a Diocese, as appears by the Injunctions given to Bishops not to invade the *Parishes* of each other.

You will observe from this Account, that the Relation which the Clergy had to their Bishop, and to the People recommended to their Care, did not de-

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pend upon their having Houses among the People to whom they were to preach. They went from the Mother Church to the distant Parts of the Diocese to discharge their Duty, and provided Conveniencies for themselves for the Time they stayed, as other Travellers might do: And should all the Glebe Houses in a Diocese happen to be destroyed, the Duty of the Clergy would surely be the same that it was before any such Houses were erected.

LET us consider then, in the next Place, how this Case stood upon the Division of the Dioceses into Parishes.

As Christianity spread, and Believers multiplied, the old Method was found very inconvenient; and therefore great Encouragement was given to all Lords of Manors, and other great People, to erect Churches for themselves and Tenants upon their own Lands; and, for this Purpose, the Bishop yielded Part of his Right to such Founders, permitting them to name a Person to serve the Living, provided he was well qualified, the Judgment of which the Bishop reserved to himself: And this was the Origin of Lay Patronages. But, as it was highly convenient, and for the due Performance of the Parochial Duty necessary, that a fixed Curate should have a fixed Habitation, it was made a Condition of such Foundations,

that a Manse and Glebe should be provided for the Curate, *i. e.* an House, and a proper Portion of Glebe Land for the better Support of himself and Family, over and above the Tithes and Oblations: And it appears both in the Laws of the Church and Empire, that a Parochial Church could not be erected, at least not consecrated, till this Provision was made.

Now this Change in the outward Face of the Diocese was necessarily followed by a Change of Discipline. The Clergy hereby contracted a nearer Relation to the Inhabitants of their several Parishes, and in great Measure lost that general Relation which they had to the People of the whole Diocese: And the Bishop had a Right to exact from the Parochial Clergy a strict Residence, and a constant Performance of Duty in their several Parishes; but he had no longer a Right to require their Service in any other Part of the Diocese.

THERE is another very material Thing to be observed on this Case: For this Change introduced also into the Law of the Church a new Notion of Residence, which we must particularly attend to in order to clear the present Question; I mean the *Legal Notion* of Residence, which implies living and abiding, not only in the Parish, but in the very Glebe House itself: So that, by the Law at this Day, a Man may live constantly in his Parish, and yet be liable to many Penalties of Non-residence, if he does

not live in the very Glebe House. I call this the *Legal Notion* of Residence; for without all Doubt, in the Reason of the Thing, the living in one House within the Parish is as much Residence as living in another, and may as well answer all the Purposes of Religion and Ecclesiastical Discipline. But this Legal Residence stands upon a Reason of its own, and a very good one it is: For as the Laws of the Church and State made it necessary for the Founders of Churches to provide Houses for the Ministers, so it was but equitable to make it necessary for the Ministers to maintain the Houses in constant Repair; and the surest Way to effect it was to oblige them to live in their own Houses, and not leave them at Liberty to hire convenient Habitations for themselves, and to let out the Glebe Houses to poor indigent Tenants, which could end in nothing but suffering the Buildings to run to Decay and Ruin: And for this Reason the Court of King's Bench, 40 Elizabeth, determined, that the Residence required by the Statute of 21 H. VIII. was a Residence in the Parsonage House*; "for the Statute requires
 " Residence not only for serving the Cure, and for
 " Hospitality, but also for maintaining the Houses,
 " for the Habitation not only of the present Incumbent, but of his Successors also;" which is the Reason given by the Court. And therefore, when my Lord Coke says, that the Want of an House excuses

* Butler and Goodal's Case.

Residence,

Residence, he means only this *Legal* Residence: And so far it is certain, that if a Person has not a Glebe House, he cannot live in one. He can consistently mean nothing else; and if he does, his Opinion is not an Authority in this Case: For the Want of an House will not discharge the Obligations which the Minister of every Parish has voluntarily undertaken, and which must require Residence, in the natural and proper Sense of the Word.

You see then from this Account, that there are two Kinds of Residence, one implied in the very Nature of the Office, another introduced by positive Law. There wants no Law to declare or to injoin the Necessity of Residence in the Case of a Minister of a Parish, in the first Sense, any more than there wants a Law to declare that a Pilot should attend the Ship: The very Nature of the Office is a Law in both Cases, and carries with it the highest Obligation. This Residence, before the Division of Dioceses into Parishes, had Relation to the whole Diocese, and was limited to one Part or another by special Direction from the Bishop: So that a Clergyman was in those Days obliged to perform the Function of his Office in such Part of the Diocese, and for such Time, as the Bishop thought proper.

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CONSIDER then how the Case stands now with respect to those who have no Glebe Houses. They are certainly appointed by the Bishop to take Care of their particular Parishes, and are in this respect under the same Obligation to Residence that the Clergy anciently were before the Division of Parishes; with this only Difference, that formerly the Clergy were moveable from one Part of the Diocese to another, whereas now they are fixed to one Parish, and cannot be removed without their own Consent: But this made no Difference in the Obligation. Besides, every Clergyman, who is instituted to a Parish Cure, does voluntarily undertake the Office, and binds himself to perform it: The Want of a convenient Habitation may be a Reason to refuse the Living; but the Inconvenience, which they willingly submitted to, when they took the Living, can never be pleaded afterwards as a just Excuse for Neglect of the Duty, which they willingly undertook at the same Time. Where there is no Glebe House, the *Legal* Residence is dispensed with: And where it really happens to be the Case, that no House or Lodging can be conveniently had within the Parish, for the same Reason Residence within the Limits of the Parish is dispensed with also: But still the general Obligation to a personal Discharge of the Parochial Duty remains; and the Bishop has a Right, in all ordinary Cases, to require from every Incumbent that he performs the Duty accordingly. How near
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he shall live to his Parish, cannot perhaps be determined by the Ordinary, but must be left to the Conveniencies which the Country affords, and the good Conscience of the Incumbent. And whoever considers the Office he has undertaken, will find that good Conscience obliges him to place himself as conveniently as he can for the Benefit of his People: And he who does so, under these Circumstances, is to be reputed a resident Minister. And so the Gloss upon Cardinal *Otho's* Constitution (*De Institutione Vicariorum*) has determined: There it is said, “ That if a Vicar, who
 “ is bound by Oath to Residence, happens to have
 “ no House, yet he shall be reputed as resident, if he
 “ be so nigh situate to the Parish, that the Inhabitants thereof may conveniently have Access to him,
 “ as oft as the Parishioners have Need of his Ministry,
 “ and so as on all Requisitions he be ready to administer the Sacraments within the Parish.”

As to the other Case, where there are Glebes and Houses, but the Houses in a very mean Condition, it differs very much from that already mentioned; for here the Reason of the Law, which requires strict Residence, must be considered. The main Thing aimed at by the Law is the maintaining the Houses in good Repair: And if there are at present many mean Glebe Houses, I am afraid it has been chiefly owing to the Neglect of this Law. Had the Clergy been

been always obliged to live in their own Houses, they would, at least, have been duly repaired, and probably long before this much improved, and rendered convenient Habitations. We see, in Places where this Law has been observed, many Houses improving daily, by additional Conveniencies to them from Time to Time: But we must never expect to see any Thing like this, where the Glebe Houses are deserted by the Incumbents, and let to poor miserable Tenants.

BUT it is in vain to look back, and to reflect what might have been done to prevent this Mischief, which is now but too sensibly felt by many. It is of more Consequence to consider what may be reasonably attempted towards retrieving this Evil.

IN Strictness of Law, wherever there is a Glebe House, the Incumbent is obliged to live in it; the Law has no respect to the Goodness or Badness of the House: But in the Condition Things now are, it would be thought hard to drive a Minister and his Family to live in a wretched Cottage; or to put him under the Necessity of building a new House, to the Ruin or Impoverishment of himself and Family. What then can be done? Ought the Ordinary to suffer Things to go on in the present Course from bad to worse? Ought the Clergy to desire it? What Reason can any Man give now to excuse himself from being put to Charge in repairing

pairing his Glebe House, that will not be as strong or stronger in the Mouth of his Successor? The House perhaps has been long neglected, and you think it hard the Expence should fall on you: But if you continue in the Neglect, would not the Case be still harder with those that come after you? So that the only Question is, Whether the present bad State of those Houses ought to be a Reason why the Ordinary should let them fall quite? if not, there seems to be no other equitable Means left to remedy the present Evil, but that prescribed by the Injunctions of *Edw. VI. 1547*, and by those of *Q. Eliz. 1559*, to set aside a Part of the Revenue yearly for the repairing the Glebe House. The Portion allotted to this Purpose, by these Injunctions, is a fifth Part, which may in many Cases perhaps be too great: But something of this Sort, within the Bounds of Equity, should be done.

You may ask, perhaps, whether the Ordinary can by Law compel the Incumbents to submit to this Method? My Answer is, that, I think, he cannot. An Incumbent may say, that he is not obliged to alter the State of the Glebe House, or to add any Thing to it; if he repairs it, he does all the Law obliges him to. But consider, on the other Side, what Answer the Law has furnished the Ordinary with: He may say, if you like the House as it is, you must live in it. And this Condition, if accepted, will answer all Purposes; but in

many Cafes, it would, I fear, be a greater Hardship, than allotting a reasonable Portion of the Revenue towards making a habitable House in Time.

I WANT not to be told, and I am sorry it is so evident a Case, that many of the Clergy have so poor a Subsistence for themselves and Families, that they have nothing to spare from their daily Maintenance, to be applied to the Improvement of their Livings. I wish it were in my Power to increase the Maintenance of such of the Clergy; I am sure I never shall have the Will to diminish it. But having mentioned this, give me Leave to observe to you, that probably the Poor-ness of many Livings is, in a great Measure, owing to want of a convenient Habitation for the Incumbent within his Parish; and that, being destitute of Conveniencies for gathering in his legal Dues, he is often forced to compound for what he can get: And by this Means, Moduses and Prescriptions have grown upon the Church; and where they have, it is well if the Parson, in lieu of the Tithes of the Parish, receives the Tithe of his own Dues. In many Cafes he receives much less.

ALL Incumbents then, whether Rectors or Vicars, being thus obliged to continual Residence, the Law has provided for some extraordinary Cafes; and Ordinaries have a Power to dispense with Residence in the Cafes,

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and under the Restrictions, prescribed by the Law. But such Cases as the Law has not specially provided for, must be left to the general Reason of the Thing, and the Judgment of the Ordinary.

BUT supposing all Circumstances to meet that may make it reasonable and proper to grant a Dispensation for Residence, yet there are certain Conditions annexed to the Grant, which must be observed.

EVERY beneficed Man licenced not to reside on his Benefice, must have a sufficient Curate to supply his Place. We need look no further than the Canons of 1603, to see that this is Law; and I will suspect no Man's Judgment so far, as to go about to prove it to be Reason.

THESE Curates must have sufficient Ability to discharge the Duty; and

SUFFICIENT Maintenance to support them in it.

IN both these Cases, the Ordinary is made the Judge. And if it will be of any Service to you to know my Opinion in these Cases, I will in general declare, that I can think no Man fit to be admitted a Curate, against whom there would be a proper Objection, if he came for Institution: The Reason is,

because he is to perform the same Duty that a Person instituted is to perform.

As to Maintenance, it ought to be, what it is called, such an Allowance as a Man may live upon, without being driven to seek help from Methods unbecoming his Profession.

It sometimes happens that a Curate is employed to serve two Parishes; a Case never to be admitted, but upon evident Necessity, as bringing great Reproach upon the Clergy, and necessarily introducing a great Neglect of religious Service in the Country. When a Man, who has a good Living, leaves it himself, and puts in one of these Half-Curates to supply his Absence, what can the People think, but that their Minister has no Regard to any Thing but the Cheapness of his Curate? And when Churches are thus half attended, and are deprived either of the Morning or Evening Service, the People of the Parish, who are religiously disposed, will probably go to the Meeting-house, if there be one near; those who are not religiously disposed, will probably go to the Ale-house. And with what Face can we complain of the People for neglecting the Service of the Church, when the Service itself is neglected by those whose Duty it is to see it performed? This is an Evil that must be remedied.

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THE 48th Canon of 1603 has decreed, that *no Man shall serve more than one Church or Chapel upon one Day, except that Chapel be a Member of the Parish Church, or united thereunto; and unless the said Church or Chapel, where such a Minister shall serve in two Places, be not able in the Judgment of the Bishop or Ordinary to maintain a Curate.*

HERE are two Exceptions; of which the first speaks for itself, the second is referred to the Judgment of the Bishop. I do therefore expect to be consulted in this Case, and that all, who think themselves entitled to the Benefit of this Exception in the Canon, do lay their Reasons before me.

WHERE a resident Minister wants a Curate for his Assistance, I should be less inquisitive in both Respects, relying upon the Ability of an experienced Incumbent to advise and instruct his Curate, and his Hospitality to support him.

ALL Incumbents, whether Resident or Non-resident, are bound to uphold and maintain their Houses; but there will be particular Reason to inquire into the Condition of the Houses that belong to those who are legally dispensed with from residing. I need give you no Reason for this: Common Experience

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Experience in the Case calls for this Care, and will justify it.

I HAVE now gone through what I proposed to say on this Head. I have been the more particular, that I might shew you not only the Rule of *your* Duty, but the Rule of *my own* also. It will always be a Pleasure to me to assist, with the utmost of my Power, the meanest Clergyman in the Diocese in the Discharge of his Duty. Where it is reasonable to dispense with any Man's constant and personal Attendance on his Cure, the Terms of the Law must be pursued; beyond which there is nothing for any Clergyman to ask, nothing for any Bishop to grant.

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